

¹ The Board finds that OWCP's November 10, 2020 letter to appellant constitutes a final adverse merit decision on appellant's September 17, 2020 claim for recurrence of a medical condition. The Board's *Rules of Procedure* provides that the Board has jurisdiction to consider and decide appeals from the final decision of OWCP in any case arising under FECA. In considering whether a document constitutes a final decision, it is not the form, but the content and the intention of OWCP that is determinative. *See A.N.*, Docket No. 20-1603 (issued June 16, 2021).

On September 20, 2017 appellant filed a notice of recurrence (Form CA-2a) of disability but did not note a date of work stoppage. In describing how the recurrence occurred, she noted that she had received physical therapy for her condition, but she had not recovered. Appellant explained that she had not stopped work again, but continued to require medical treatment. On the reverse side of the form, appellant's supervisor indicated that following her original injury, appellant received medical accommodation for three months on light duty.

By decisions dated December 4, 2017, April 23, 2018, and October 5, 2018, OWCP denied appellant's September 20, 2017 recurrence of disability claim.

On September 17, 2020 appellant filed a Form CA-2a claim for a recurrence of the need for medical treatment. She noted the date of the original injury, the date of recurrence, and the date she stopped work as December 11, 2014.

In an October 22, 2020 development letter, OWCP requested that appellant submit additional evidence, including an attending physician's opinion supported by a medical explanation as to how her claimed recurrence of a medical condition was due to her original accepted injury/illness, without intervening cause.

By decision dated November 10, 2020, OWCP summarily denied appellant's claim for a recurrence of the need for medical treatment. It noted that it had received a Form CA-2a claim for a recurrence of the need for medical treatment commencing the same date as her initial injury, and that this appeared to be a duplicate of her September 20, 2017 recurrence of disability claim. OWCP further noted that the claim was initially denied by decisions dated December 4, 2017 and April 23 and October 5, 2018. It further noted that a recurrence cannot be claimed on the same date appellant was injured.

The Board, having duly considered this matter, finds that this case is not in posture for decision.

OWCP summarily denied appellant's claim for a recurrence of the need for medical treatment without complying with the review requirement of FECA and its implementing regulations.² Section 8124(a) of FECA (5 U.S.C. § 8124(a)) provides that OWCP shall determine and make findings of fact and make an award for or against payment of compensation. OWCP's regulations at 20 C.F.R. § 10.126 provide that the decision of the Director of OWCP shall contain findings of fact and a statement of reasons. As well, its procedures provide that the reasoning behind OWCP's decision should be clear enough for the reader to understand the precise defect of the claim and the kind of evidence, which would overcome it.³

In its November 10, 2020 decision, OWCP did not discharge its responsibility to set forth findings of fact and a clear statement of reasons explaining the disposition so that appellant could

² See *Order Remanding Case, W.D.*, Docket No. 20-0859 (issued November 20, 2020); *Order Remanding Case, C.G.*, Docket No. 20-0051 (issued June 29, 2020); *Order Remanding Case, T.P.*, Docket No. 19-1533 (issued April 30, 2020); see also 20 C.F.R. § 10.607(b).

³ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Disallowances*, Chapter 2.1400.5 (February 2013).

understand the basis for the decision.⁴ Rather, it summarily denied appellant's claim for a recurrence of the need for medical treatment, noting that appellant's recurrence claim appeared to be a duplicate of her September 20, 2017 recurrence of disability claim. The claims, however, are not duplicates as the latter is a claim for a recurrence of the need for medical treatment, not a claim for a recurrence of disability. OWCP's failure to provide factual findings and explain the basis for its conclusion that appellant did not establish a recurrence of the need for medical treatment precludes the Board's review of the decision.⁵

The Board will, therefore, set aside OWCP's November 10, 2020 decision and remand the case for a *de novo* decision on appellant's claim for a recurrence of the need for medical treatment. Accordingly,

IT IS HEREBY ORDERED THAT the November 10, 2020 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings pursuant to this order of the Board.

Issued: May 26, 2022
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board

⁴ 20 C.F.R. § 10.126; *D.W.*, Docket No. 18-0483 (issued March 7, 2019).

⁵ *See Order Remanding Case*, Docket No. 19-1533 (issued April 30, 2020).